



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-533-861, A-570-024, A-122-855, A-523-810)

Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or James Martinelli at (202) 482-4081 and (202) 482-2923, respectively (Canada), Tyler Weinhold at (202) 482-1121 (the People's Republic of China (PRC)); Fred Baker at (202) 482-2924 (India); or Magd Zalok at (202) 482-4162 (the Sultanate of Oman (Oman)), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On March 10, 2015, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of certain polyethylene terephthalate (PET) resin from Canada, India, the PRC, and Oman filed in proper form on behalf of DAK Americas, LLC, M&G Chemicals, and Nan Ya Plastics Corporation, America (Petitioners).¹ The AD

¹ See Petitions for the Imposition of Antidumping Duties on Imports of Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman, dated March 10, 2015 (the Petitions).

petitions were accompanied by three countervailing duty (CVD) petitions.² Petitioners are domestic producers of PET resin.³

On March 13, 2015, and March 19, 2015, the Department requested additional information and clarification of certain areas of the Petitions.⁴ Petitioners filed responses to these requests on March 18, 2015,⁵ March 19, 2015,⁶ March 20, 2015,⁷ and March 24, 2015.⁸ Petitioners filed a revised scope on March 24, 2015, and March 27, 2015.⁹

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that imports of PET resin from Canada, the PRC, India, and Oman are being, or are likely to be, sold in the United States at less-than-fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioners supporting their allegations.

The Department finds that Petitioners filed these Petitions on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that Petitioners demonstrated sufficient industry support with respect to

² See Petitions for the Imposition of Countervailing Duties on Imports of Certain Polyethylene Terephthalate Resin from the People's Republic of China, India, and the Sultanate of Oman, dated March 10, 2015

³ See Volume I of the Petitions, at 1, 4, and Exhibit GEN-1.

⁴ See Letter from the Department to Petitioners entitled "Re: Petitions for the Imposition of Antidumping Duties on Imports of Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman, and Countervailing Duties on Imports of Certain Polyethylene Terephthalate Resin from the People's Republic of China, India, and the Sultanate of Oman: Supplemental Questions" dated March 13, 2015 (General Issues Supplemental Questionnaire), and Letters from the Department to Petitioners entitled "Re: Petition for the Imposition of Antidumping Duties on Imports of Certain Polyethylene Terephthalate Resin from {country}: Supplemental Questions" on each of the country-specific records, dated March 13, 2015.

⁵ See Supplement to the Canada Petition, dated March 18, 2015 (Canada Supplement); Supplement to the PRC AD Petition, dated March 18, 2015 (PRC AD Supplement); Supplement to the India AD Petition, dated March 18, 2015 (India AD Supplement); Supplement to the Oman AD Petition, dated March 18, 2015 (Oman AD Supplement).

⁶ See General Issues Supplement to the Petitions, dated March 19, 2015 (General Issues Supplement).

⁷ See Second Supplement to the Canada Petition, dated March 20, 2015 (Second Canada Supplement); Second Supplement to the PRC AD Petition, dated March 20, 2015 (Second PRC AD Supplement).

⁸ See Second Supplement to the India AD Petition, dated March 24, 2015 (Second India AD Supplement); Second Supplement to the Oman AD Petition, dated March 24, 2015 (Second Oman AD Supplement).

⁹ See Scope Supplement to the Petitions, dated March 24, 2015 (Scope Supplement); and Second Scope Supplement to the Petitions, dated March 27, 2015 (Second Scope Supplement).

the initiation of the AD investigations that Petitioners are requesting.¹⁰

Periods of Investigation

Because the Petitions were filed on March 10, 2015, the periods of investigation (POI) are, pursuant to 19 CFR 351.204(b)(1), as follows: January 1, 2014, through December 31, 2014, for Canada, India, and Oman, and July 1, 2014, through December 31, 2014, for the PRC.

Scope of the Investigations

The product covered by these investigations is PET resin from Canada, the PRC, India, and Oman. For a full description of the scope of these investigations, *see* the “Scope of the Investigations,” in Appendix I of this notice.

Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, Petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.¹¹

As discussed in the preamble to the Department’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. All such comments must be filed by 5:00 p.m. Eastern Daylight Time (EDT) on Monday, April 20, 2015, which is 21 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual

¹⁰ *See* the “Determination of Industry Support for the Petitions” section below.

¹¹ *See* General Issues Supplemental Questionnaire; *see also* General Issues Supplement and Scope Supplement.

information, must be filed by 5:00 p.m. EDT on Thursday, April 30, 2015, which is 10 calendar days after the initial comments.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).¹² An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of PET resin to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

subject merchandise in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe PET resin, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all comments must be filed by 5:00 P.M. EDT on Monday, April 20, 2015, which is 21 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 P.M. EDT on Monday, April 27, 2015. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Canada, the PRC, India, and Oman less-than-fair-value investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the

total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product

¹³ See section 771(10) of the Act.

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that PET resin constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹⁵

In determining whether Petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in Appendix I of this notice. Petitioners provided their own production of the domestic like product in 2014.¹⁶ In addition, Petitioners estimated the total 2014 production of the domestic like product for the entire domestic industry.¹⁷ To establish industry support, Petitioners compared their own production to total production of the domestic like product for the entire domestic industry.¹⁸

Our review of the data provided in the Petitions, supplemental submission, and other information readily available to the Department indicates that Petitioners have established

¹⁵ For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from Canada (Canada AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Polyethylene Terephthalate Resin from Canada, the People’s Republic of China, India, and the Sultanate of Oman (Attachment II); Antidumping Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from the People’s Republic of China (PRC AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from India (India AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Certain Polyethylene Terephthalate Resin from the Sultanate of Oman (Oman AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room 7046 of the main Department of Commerce building.

¹⁶ *See* Volume I of the Petitions, at Exhibit GEN-1.

¹⁷ *Id.*

¹⁸ *Id.* For further discussion, *see* Canada AD Initiation Checklist, PRC AD Initiation Checklist, India AD Initiation Checklist, and Oman AD Initiation Checklist, at Attachment II.

industry support.¹⁹ First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁰ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.²¹ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.²² Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the AD investigations that they are requesting the Department initiate.²³

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject

¹⁹ See Canada AD Initiation Checklist, PRC AD Initiation Checklist, India AD Initiation Checklist, and Oman AD Initiation Checklist, at Attachment II.

²⁰ See section 732(c)(4)(D) of the Act; *see also* Canada AD Initiation Checklist, PRC AD Initiation Checklist, India AD Initiation Checklist, and Oman AD Initiation Checklist, at Attachment II.

²¹ See Canada AD Initiation Checklist, PRC AD Initiation Checklist, India AD Initiation Checklist, and Oman AD Initiation Checklist, at Attachment II.

²² *Id.*

²³ *Id.*

merchandise sold at less than normal value (NV). In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁴ Petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; declining U.S. shipment and production trends and low capacity utilization rates; decline in production-related workers; and decline in financial performance.²⁵ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²⁶

Allegations of Sales at Less-Than-Fair Value

The following is a description of the allegations of sales at less-than-fair value upon which the Department based its decision to initiate investigations of imports of PET resin from Canada, the PRC, India, and Oman. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For India, Petitioners based EP on the average unit value (AUV) of imports from India under Harmonized Tariff Schedule of the United States (HTSUS) subheading 3907.60.0030 (which covers the subject merchandise), using import statistics obtained from the ITC's Dataweb

²⁴ See Volume I of the Petitions, at 12-13 and Exhibit GEN-7; *see also* General Issues Supplement, Attachment 1, at 7.

²⁵ See Volume I of the Petitions, at 10, 12-21 and Exhibits GEN-4 and GEN-7 through GEN-11; *see also* General Issues Supplement, cover letter, at 2, Attachment 1, at 7, and Attachment 2, at Exhibit GEN-S9.

²⁶ See Canada AD Initiation Checklist, PRC AD Initiation Checklist, India AD Initiation Checklist, and Oman AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman.

for the period of January-December 2014 (*i.e.*, the prospective POI).²⁷ Because the AUV represents free-on-board (FOB) India port terms, Petitioners made deductions from U.S. price for foreign movement expenses.²⁸

For the PRC, Petitioners based EP on sales/offers for sale to U.S. customers from producers/exporters in the PRC. Petitioners made deductions from U.S. price for movement expenses and un-rebated Value Added Tax, consistent with the delivery terms. Petitioners also deducted from U.S. price trading company/reseller selling expenses estimated using the financial statements of a U.S. distributor of chemical and plastic products.²⁹

Constructed Export Price

For Canada and Oman, Petitioners calculated constructed export price (CEP) based on offers for sales of PET resin from producers of subject merchandise produced in, and exported from, the subject country. Petitioners contend that these price quotes should be considered CEP sales based on information that indicates the producers in these subject countries likely conducted the sales through their respective sales offices located in the United States. Petitioners made deductions for movement and other expenses consistent with the sales and delivery terms of the applicable price. Petitioners also deducted U.S. selling expenses estimated using the financial statements of a U.S. distributor of chemical and plastic products.³⁰

Normal Value

For Canada, Petitioners alleged that sales of PET resin in Canada were made at prices substantially below the cost of production (COP).³¹ For India and Oman, Petitioners attempted to obtain home market prices, but were unable to demonstrate the home market pricing

²⁷ See India AD Initiation Checklist.

²⁸ *Id.*

²⁹ See PRC AD Initiation Checklist.

³⁰ See Canada AD Initiation Checklist and Oman AD Initiation Checklist.

³¹ See Canada AD Initiation Checklist.

information they obtained was for PET resin offered for sale in and produced in India and Oman, respectively. Petitioners also provided PET resin prices for the two countries' largest third-country export markets and alleged that those third country prices are below the COP.³² The largest third-country markets for India and Oman were Bangladesh and Belgium, respectively. The prices Petitioners submitted for these countries were derived from the *Global Trade Atlas* (GTA), and were for an Indian and Omani HTS subheading under which PET resin was exported.³³

Sales-Below-Cost Allegation

Petitioners provided information demonstrating reasonable grounds to believe or suspect that sales of PET resin in the Canadian market and certain third-country sales made by Indian and Omani producers were made at prices below the COP within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation of PET resin imports from Canada, India, and Oman.³⁴

With respect to sales-below-cost allegations in the context of investigations, the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act states that an allegation of sales below COP need not be specific to individual exporters or producers.³⁵ The SAA states further that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country . . . on a country-wide basis for purposes of initiating an antidumping investigation."³⁶ Consequently, the Department intends to consider Petitioners' allegations on a country-wide basis for each respective country for purposes of this initiation.

³² See India AD Initiation Checklist and Oman AD Initiation Checklist.

³³ See Second India AD Supplement, at AD Exhibit I-SS4b; Second Oman AD Supplement, at AD Exhibit O-SS12b.

³⁴ See Canada AD Initiation Checklist; India AD Initiation Checklist; and Oman AD Initiation Checklist.

³⁵ See SAA, H.R. Doc. No. 103-316, at 833 (1994).

³⁶ *Id.*

Finally, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that the Department have “reasonable grounds to believe or suspect that below-cost sales have occurred before initiating such an investigation.”³⁷ ““Reasonable grounds” will exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.”³⁸ As explained in the “Cost of Production” section below, we find reasonable grounds exist that indicate home market sales in Canada and third-country sales made by producers in India and Oman were made at below-cost prices.

Cost of Production

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); selling, general, and administrative (SG&A) expenses; and packing expenses.

For Canada, Petitioners calculated COM (except for depreciation) based on the weighted-average of the U.S. producers’ experience adjusted for known differences between the United States and Canada, during the proposed POI. Petitioners multiplied the weighted-average of their respective usage by publicly-available data to value all of the significant inputs used to manufacture PET resin in Canada.³⁹ For other inputs in Canada, Petitioners multiplied the weighted-average of their respective usage rates by their own cost experience to value the input’s cost. To determine depreciation, SG&A, and financial expense rates, Petitioners relied on financial statements of a producer of comparable merchandise (plastics, such as specialized polyethylene resin) in Canada.⁴⁰

³⁷ *Id.*

³⁸ *Id.*

³⁹ *See* Canada AD Initiation Checklist.

⁴⁰ *Id.*

For India, Petitioners calculated COM (except for manufacturing overhead) based on the weighted-average of the U.S. producers' experience adjusted for known differences between the United States and India, during the proposed POI. Petitioners multiplied the weighted-average of their respective usage by publicly-available data to value all of the significant inputs used to manufacture PET resin in India.⁴¹ To determine manufacturing overhead, SG&A, and financial expense rates, Petitioners relied on financial statements of producers of PET resin in India.⁴²

For Oman, Petitioners calculated COM (except for manufacturing overhead) based on the weighted-average of the U.S. producers' experience adjusted for known differences between the United States and Oman, during the proposed POI. Petitioners multiplied the weighted-average of their respective usage by publicly-available data to value all of the significant inputs used to manufacture PET resin in Oman.⁴³ For other inputs in Oman, Petitioners multiplied the weighted-average of their respective usage rates by their own cost experience to value the inputs' cost. To determine depreciation, SG&A, and financial expense rates, Petitioners relied on financial statements of a producer of comparable merchandise (plastic) in Oman.⁴⁴

Petitioners obtained a price for a home market sale/offer for sale of PET resin by the only known producer of PET resin in Canada.⁴⁵ For India and Oman, Petitioners attempted to obtain home market prices. Because Petitioners were unable to demonstrate that the home market pricing information was for PET resin offered for sale in and produced in India and Oman, respectively, we are relying on the prices provided by Petitioners for the two countries' respective largest third-country export markets.⁴⁶

⁴¹ See Canada AD Initiation Checklist; India AD Initiation Checklist; Oman AD Initiation Checklist.

⁴² See Canada AD Initiation Checklist; Oman AD Initiation Checklist.

⁴³ See Canada AD Initiation Checklist; India AD Initiation Checklist; Oman AD Initiation Checklist.

⁴⁴ See Canada AD Initiation Checklist; Oman AD Initiation Checklist.

⁴⁵ See Canada AD Initiation Checklist.

⁴⁶ See India AD Initiation Checklist; Oman AD Initiation Checklist.

For Canada and India, Petitioners made deductions for domestic inland freight and packing for purposes of comparing the respective prices to COP. For Oman, Petitioners made adjustments for Oman inland freight, ocean freight, insurance, and packing to calculate net third-country price for purposes of comparing the price to COP.⁴⁷

Based upon a comparison of the ex-factory price of the foreign like product in the respective comparison markets to the COP of the product for Canada, India and Oman, we find reasonable grounds to believe or suspect that sales of the foreign like product in the respective comparison markets were made below the COP, within the meaning of section 773(b)(2)(A)(I) of the Act. Accordingly, the Department is initiating country-wide cost investigations relating to sales of PET resin in Canada and in Oman's and India's third-country markets (*i.e.*, Belgium and Bangladesh, respectively).

Normal Value Based on Constructed Value

For Canada, because they alleged sales below cost, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, Petitioners calculated NV based on constructed value (CV). Petitioners calculated CV using the same average COM, SG&A, financial, and packing expenses used to calculate COP. Petitioners relied on the same financial statements used as a basis for manufacturing overhead, SG&A, and financial expenses to calculate the profit rate.⁴⁸

For India, because they alleged sales below cost, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, Petitioners calculated NV based on CV. Petitioners calculated CV using the same average COM, SG&A, financial, and packing expenses used to calculate COP.

⁴⁷ See Canada AD Initiation Checklist, India AD Initiation Checklist; Oman AD Initiation Checklist.

⁴⁸ *Id.*

Petitioners relied on the same financial statements used as a basis for manufacturing overhead, SG&A, and financial expenses to calculate the profit rate.⁴⁹

For Oman, because they alleged sales below cost, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, Petitioners calculated NV based on CV. Petitioners calculated CV using the same average COM, SG&A, financial, and packing expenses used to calculate COP.

Petitioners relied on the same financial statements used as a basis for manufacturing overhead, SG&A, and financial expenses to calculate the profit rate.⁵⁰

Normal Value Based on Factors of Production

With respect to the PRC, Petitioners assert that the Department has long treated the PRC as a non-market-economy (NME) country.⁵¹ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. As the presumption of NME status for the PRC has not been revoked by the Department, it remains in effect for purposes of the initiation of the investigation of PET resin from the PRC. Accordingly, the NV of the product is appropriately based on factors of production (FOPs), valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners state that South Africa is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of the PRC, it is a significant producer of identical merchandise, and the data for valuing FOPs are both available

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ See Volume II-B of the Petition, at 9.

and reliable.⁵²

Based on the information provided by Petitioners, we believe it is appropriate to use South Africa as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate-country selection and will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.⁵³

Factors of Production

Petitioners based the FOPs for materials, labor, and energy on the petitioning U.S. producers' consumption rates for producing certain PET resin as they did not have access to the consumption rates of PRC producers of PET resin.⁵⁴ Petitioners valued the estimated factors of production using surrogate values from South Africa.⁵⁵ Where it was necessary to rely on surrogate value data from a period preceding the POI, Petitioners inflated such values to reflect current prices using the consumer price inflation index (CPI) data for South Africa published by the IMF.⁵⁶

Valuation of Raw Materials

For the PRC producer's costs of direct materials Purified Terephthalic Acid (PTA) and Mono-Ethylene Glycol (MEG), the major input raw materials used to produce the subject merchandise, Petitioners relied upon South African import statistics for Harmonized Tariff Schedule (HTS) 2917.36 and HTS 2905.31, respectively, for the period July through December 2014, published by GTA. These values were reported on a FOB basis at the port of exit of South

⁵² *Id.* at 9-11.

⁵³ See 19 CFR 351.301(c)(3)(i).

⁵⁴ See Volume II-B of the Petition, at 11 and AD Exhibit B; *see also* PRC AD Supplement, at 5-6.

⁵⁵ See Volume II-B of the Petition, at 11 and AD Exhibit PRC-15; *see also* PRC AD Supplement at AD Exhibit PRC-S15.

⁵⁶ See Volume II-B of the Petition, at 12.

Africa's trading partners.⁵⁷ Petitioners therefore added the average South African inland freight charges reported for importing goods into South Africa reported in *Doing Business 2015: South Africa*, published by the World Bank, and average ocean freight based on public quotes for the POI from Maersk.⁵⁸ In its calculations of surrogate values based on these data, Petitioners excluded all import data from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries. In addition, in accordance with the Department's practice, the average import value excludes imports that were labeled as originating from an unidentified country.⁵⁹ For certain other minor inputs (*i.e.*, additives, which Petitioners claim are proprietary from producer to producer) Petitioners did not value such inputs, as a conservative measure.⁶⁰ Petitioners valued recoverable PET resin scrap using South African imports of plastic waste and scrap under HTS 3915.90.⁶¹

Valuation of Energy and Water

Petitioners used public information, as compiled by Eskom (a South African electricity public utility), to value electricity.⁶² The cost of natural gas in South Africa was calculated from the average unit value of imports of liquid natural gas for the period.⁶³ Using universal conversion factors, Petitioners converted that cost to an equivalent US\$2.59 per mmbtu of natural gas.⁶⁴ For purchased steam, Petitioners calculated a price of \$19.74/short ton by multiplying the natural gas cost of \$135.95/per short ton by 0.1452, a conversion factor

⁵⁷ See Volume II-B of the Petition, at 12 and AD Exhibit PRC-11.

⁵⁸ See Volume II-B of the Petition, at 12 and AD PRC-Exhibit 11; *see also* PRC AD Supplement, at 8 and AD Exhibit PRC-S11.

⁵⁹ See Volume II-B of the Petition, at 12 and AD Exhibit PRC-11.

⁶⁰ See PRC AD Supplement, at 9 and AD Exhibit PRC-S15.

⁶¹ See Volume II-B of the Petitions, at 12 and AD Exhibit PRC-11.

⁶² See Volume II-B of the Petitions, at 13 and AD Exhibit PRC-12A.

⁶³ See Volume II-B of the Petitions, at 13 and AD Exhibit PRC-12B.

⁶⁴ See Volume II-B of the Petitions, at 13 and footnote 14.

previously used by the Department when benchmarking steam to the price of natural gas.⁶⁵ For water, Petitioners used data compiled by Statistics South Africa.⁶⁶ For certain other minor energy inputs consumed by the petitioning U.S. producers, Petitioners did not provide a surrogate value, as a conservative measure.⁶⁷

Valuation of Labor

Petitioners calculated labor for PET resin using industry-specific wage rates for South Africa from LABORSTA, a labor database compiled by the International Labor Organization. Petitioners adjusted this value for inflation to 71.26 Rand per hour in the POI.⁶⁸

Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit

Petitioners calculated surrogate financial ratios (*i.e.*, manufacturing overhead, selling, general and administrative (SG&A) expenses, and profit) using the 2012-2013 audited, consolidated financial statement of KAP Industrial Holdings, Ltd. (KAP), a South African producer of identical merchandise (PET resin).⁶⁹

Valuation of Packing Expenses

Petitioners used the average petitioning U.S. producers' unit consumption of export packing materials reported and valued those materials using surrogate values for packing.⁷⁰

Fair Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of PET resin from Canada, the PRC, India, and Oman are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of EP or CEP to NV in accordance with

⁶⁵ See Volume II-B of the Petitions, at 13 and AD Exhibit PRC-12C.

⁶⁶ See Volume II-B of the Petitions, at 14 and AD Exhibit PRC-12D.

⁶⁷ See PRC AD Supplement, at 9 and AD Exhibit PRC-S15.

⁶⁸ See Volume II-B of the Petitions, at 14 and AD Exhibit PRC-13.

⁶⁹ See Volume II-B of the Petitions, at 10, 15 to 16 and AD Exhibit PRC-14.

⁷⁰ See Volume II-B of the Petitions, at 15 and AD Exhibit PRC-11.

section 773(a) of the Act, the estimated dumping margin(s) for PET resin from: 1) Canada range from 96.30 to 102.99 percent;⁷¹ 2) India is 19.41 percent;⁷² 3) Oman range from 116.91 to 120.05 percent.⁷³

Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margins for PET resin from the PRC range from 193.48 to 206.42 percent.⁷⁴

Initiation of Less-than-Fair-Value Investigations

Based upon the examination of the AD Petitions on PET resin from Canada, the PRC, India, and Oman, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of PET resin from Canada, the PRC, India, and Oman are being, or are likely to be, sold in the United States at less-than-fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

Petitioners named one company from Canada, 35 companies from the PRC, 13 companies from India, and one company from Oman, as producers/exporters of PET resin.⁷⁵ Although the Department normally relies on import data from U.S. Customs and Border Protection (CBP) to select a limited number of producers/exporters for individual examination in AD investigations, the Petitions for Canada and Oman name only one company as a producer/exporter. Furthermore, we currently know of no additional producers/exporters of subject merchandise from Canada or Oman. Accordingly, the Department intends to examine all

⁷¹ See Canada AD Initiation Checklist.

⁷² See India AD Initiation Checklist.

⁷³ See Oman AD Initiation Checklist.

⁷⁴ See PRC AD Initiation Checklist.

⁷⁵ See the Volume I of the Petitions, at 10 and Exhibit GEN-3.

known producers/exporters in the investigations for Canada and Oman (*i.e.*, the company identified in the respective Petitions).

We invite interested parties to comment on this issue. Parties wishing to comment must do so within five days of the publication of this notice in the *Federal Register*. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. EDT by the date noted above.

However, for India, because Petitioners identified 13 companies as potential respondents, we intend to follow our standard practice in AD investigations involving market-economy countries, and select respondents based on CBP data for U.S. imports of PET resin under HTSUS subheading 3907.60.0030. We also intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five-business days of publication of this *Federal Register* notice, and to invite comments regarding respondent selection within seven days of publication of this *Federal Register* notice.

With respect to the PRC, in accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity-and-value (Q&V) questionnaires to each potential respondent and base respondent selection on the responses received. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at <http://www.trade.gov/enforcement/news.asp>.

Exporters/producers of PET resin from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement and Compliance website. The Q&V response must be submitted by all PRC

exporters/producers no later than April 13, 2015, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically *via* ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁷⁶ The specific requirements for submitting a separate-rate application in the PRC investigation are outlined in detail in the application itself, which is available on the Department's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>.

The separate-rate application will be due 30 days after publication of this initiation notice.⁷⁷

Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that respondents from the PRC submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of

⁷⁶ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁷⁷ Although in past investigations this deadline was 60 days, consistent with section 351.301 (a) of the Department's regulations, which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁷⁸

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Canada, the PRC, India, and Oman *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of PET resin from Canada, the PRC, India, and/or Oman are materially injuring or threatening material injury to a U.S. industry.⁷⁹ A negative ITC determination for any country will result in the investigation being terminated with respect to that country;⁸⁰ otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

⁷⁸ See Policy Bulletin 05.1 at 6 (emphasis added).

⁷⁹ See section 733(a) of the Act.

⁸⁰ *Id.*

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The regulation requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in these investigations.

New Section Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under Part 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be

considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this segment.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁸¹ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.⁸² The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

⁸¹ See section 782(b) of the Act.

⁸² See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

This notice is issued and published pursuant to section 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

March 30, 2015.

Date

Appendix I

Scope of the Investigations

The merchandise covered by these investigations is polyethylene terephthalate (PET) resin having an intrinsic viscosity of at least 0.70, but not more than 0.88, deciliters per gram. The scope includes blends of virgin PET resin and recycled PET resin containing 50 percent or more virgin PET resin content by weight, provided such blends meet the intrinsic viscosity requirements above. The scope includes all PET resin meeting the above specifications regardless of additives introduced in the manufacturing process.

The merchandise subject to these investigations is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

[FR Doc. 2015-07830 Filed: 4/3/2015 08:45 am; Publication Date: 4/6/2015]